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P.O. Box 1450
Alexandria, Virginia 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Not binding precedent

Paper 37

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Patent Interference No. 105,251

Johns Hopkins University
and the United States Government as represented by the Secretary of the Department
of Health and Human Services
(US 6,264,958 B1),
Junior Party,

v.

Dade Behring Marburg GmbH
and New York University
(09/230,048),
Senior Party.

Entered: 21 December 2005

Judgment - Bd. R. 127(b) - Requested

Before SCHAFER, TORCZON, and MEDLEY, Administrative Patent Judges.

TORCZON, Administrative Patent Judge.

1 Senior party Dade Behring has requested entry of adverse judgment against
2 itself (Paper 36). Dade Behring further requests that its application be returned to the
3 examiner. The requests are GRANTED.

4 JUDGMENT

5 Upon consideration of Dade Behring's request for entry of adverse judgment, it
6 is—

7 ORDERED that judgment be entered against Dade Behring on priority for the
8 subject matter of count 1, the sole count;

1 FURTHER ORDERED that Dade Behring's claims corresponding to count 1,
2 claims 36-38, 42, 48, 52, and 53, stand finally refused;

3 FURTHER ORDERED that Dade Behring's 09/230,048 application, which
4 contains uninvolved claims, be returned to the examining corps immediately for such
5 further action as the corps may deem proper; and

6 FURTHER ORDERED that a copy of this decision be entered in the
7 administrative records of Dade Behring's 09/230,048 application and Johns Hopkins
8 University's 6,264,958 patent.

/Richard E. Schafer/
Administrative Patent Judge

/Richard Torczon/
Administrative Patent Judge

/Sally C. Medley/
Administrative Patent Judge

BOARD OF PATENT
APPEALS AND
INTERFERENCES

cc (via facsimile):

For Johns Hopkins University and the United States Government as represented by the
Secretary of the Department of Health and Human Services: **Sarah A. Kagan**
and **Joseph M. Skerpon**, BANNER & WITCOFF, of Washington, D.C.
Fax: 202-824-3001

For Behring Diagnostics GmbH and New York University: **David Jackson** and
Christine E. Deitzel, KLAUBER & JACKSON, of Hackensack, New Jersey.
Fax: 201-343-1684

Notice: Agreements and understandings regarding the termination of an interference
are subject to filing requirements under 35 U.S.C. 135(c).

Notice: In the event of judicial review, note the requirements of Bd. R. 8(b).